

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 91-334-C - ORDER NO. 91-884
OCTOBER 15, 1991

IN RE: Application of Mid-Com Communications,) ORDER
Inc. for a Certificate of Public) GRANTING
Convenience and Necessity.) CERTIFICATE

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Mid-Com Communications, Inc. (Mid-Com) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. Mid-Com's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1990) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Mid-Com to publish a prepared Notice of Filing in newspapers of general circulation in the affected areas one time. The purpose of the Notice of Filing was to inform interested parties of Mid-Com's Application and the manner and time in which to file the appropriate pleadings for participation in the proceeding. Mid-Com complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Petitions to Intervene were filed by Southern Bell Telephone & Telegraph Company

(Southern Bell) and the South Carolina Department of Consumer Affairs (the Consumer Advocate).

A hearing was commenced on Tuesday, September 3, 1991, at 11:00 a.m. in the Commission's Hearing Room. The Honorable Marjorie Amos-Frazier presided. Frank R. Ellerbe, III, Esquire, represented Mid-Com. Carl F. McIntosh, Esquire, represented the Consumer Advocate; Fred A. Walters, Esquire, and Caroline Watson, Esquire, represented Southern Bell; and F. David Butler, Staff Counsel, represented the Commission Staff.

Mid-Com presented the testimony of Mark J. Vasconi in support of its application. Mr. Vasconi explained Mid-Com's request for certification to operate as a reseller of interexchange telecommunications services in South Carolina. Vasconi explained that the Company wished to resell two intrastate telecommunication services to business customers: an outbound long distance service and a directory assistance service. These will be add-on services to customers subscribing to Mid-Com's interstate service and outbound long distance service, respectively. Mid-Com will be responsible for billing, trouble reporting, and customer services. Mid-Com is not an Alternate Operator Service (AOS), although operators will be used for Directory Assistance. Vasconi outlined Mid-Com's financial qualifications, background, and technical capabilities. Mr. Vasconi explained that public convenience and necessity required issuance of Mid-Com's requested certificate, particularly because it provides customized billing and individualized customer service.

Southern Bell presented the testimony of C.L. Addis. Addis testified that Southern Bell opposes the resale of AT&T's Software Defined Network (SDN) services to South Carolina business customers, though it does not oppose the granting of a reseller certificate, consistent with past Commission Orders. Addis stated that he did not believe that the blocking or screening of intra-LATA calls could be done by AT&T in SDN services. Therefore, Southern Bell should be compensated by Mid-Com, when Mid-Com functions as a reseller, for the unauthorized completion of any intraLATA calls over facilities other than those approved for resale, as ordered by the Commission in Docket No. 86-187-C, Order No. 86-793, issued August 5, 1986.

After full consideration of the applicable law and of the evidence presented by Mid-Com, the Consumer Advocate, Southern Bell and the Commission Staff, the Commission hereby issues its findings of fact and conclusions of law.

FINDINGS OF FACT

1. Mid-Com is incorporated under the laws of the State of Washington, but is licensed to do business as a foreign corporation in South Carolina by the Secretary of State.
2. Mid-Com operates as a non-facilities based reseller of interexchange services, and wishes to do so on an inter-LATA basis in South Carolina.
3. Mid-Com has the experience, capability, and financial resources to provide the services as described in its application.
4. Southern Bell and other local exchange carriers (LEC's)

should be compensated for any unauthorized intraLATA calls completed through Mid-Com's facilities.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a certificate of public convenience and necessity should be granted to Mid-Com to provide intrastate, interLATA service through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Services, or any other services authorized for resale by tariffs of facility-based carriers approved by the Commission.

2. If Mid-Com, incidentally or accidentally completes any unauthorized intraLATA calls, the LEC shall be compensated by Mid-Com as ordered by the Commission in Order No. 86-793, issued August 5, 1986, in Docket No. 86-187-C.

3. The Commission adopts a rate design for Mid-Com for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate level with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communication Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts Mid-Com's proposed maximum rate tariffs.

4. Mid-Com shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Mid-Com shall file its proposed rate changes, publish its notice of

such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of Mid-Com's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1990).

5. Mid-Com shall file its tariff and an accompanying price list to reflect the Commission's findings within thirty (30) days of the date of this Order.

6. Mid-Com is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to Mid-Com's resale of services, an end user should be able to access another interexchange carrier or operator service provider if they so desire.

8. Mid-Com shall resell the services of only those facility-based interexchange carriers authorized to do business in South Carolina by this Commission. If Mid-Com changes facilities-based carriers, it shall notify the Commission in writing.

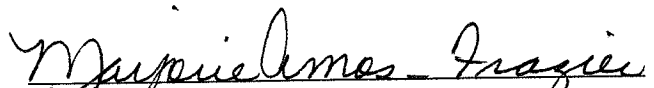
9. Mid-Com shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. The only objection left unresolved at the end of

the hearing in this case is Mr. Ellerbe's objection to certain portions of Mr. Addis' testimony on the grounds that Addis is offering a lay opinion and interpretation of the Commission's past Orders, as to whether or not the Commission has approved AT&T's SDN for resale. Ellerbe objects to Addis' testimony, page five (5), lines 11-21, page seven (7), lines 13-21, and page eight (8), lines 11-12. The objection is sustained. Clearly, Mr. Addis is offering a lay opinion/interpretation as to whether or not the Commission approved the resale of AT&T's SDN in past Orders. As Mr. Addis is unqualified to interpret the Commission's past Orders, those portions of the testimony are inadmissible and must be stricken from the record.

11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER
DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.

* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT
PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).